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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,090	01/19/2007	Tobias Fackler	100728-53-WCG	4311
27386	7590	07/09/2010	EXAMINER	
GERSTENZANG, WILLIAM C. NORRIS MC LAUGHLIN & MARCUS, PA 875 THIRD AVE, 8TH FLOOR NEW YORK, NY 10022			NELSON, MICHAEL B	
			ART UNIT	PAPER NUMBER
			1783	
			MAIL DATE	DELIVERY MODE
			07/09/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on 07/06/10 have been considered but are not persuasive.
2. First, applicant argues that there is no reason to combine the two references. This is not the case. Both references have to do with foamed cell layers. Also, both references mention the size of the cells in the foam (Reiners, C2, L10-40 and Park, C5, L1-13). Park simply explains how nucleating agents can be used to control the size of the cells in the foam and one having ordinary skill would have found this teaching obviously applicable to the foam of Reiners teaching a desired foam size. Hence one having ordinary skill would have found it obvious to have used nucleating agents to achieve the foam sizes called for in Reiners. One having ordinary skill would recognize that controlling the size of the voids via nucleating agents would be useful for optimization in both sound insulation and mechanical insulation (i.e. cushioning) applications.
3. Second applicant argues that there is evidence of unexpected results. This is not the case. Applicant cites to only one example and one comparative example as the basis for the unexpected results. A single point does not provide enough evidence of unexpected results. The unexpected results must be commensurate with the claims. Applicant has not provided enough data points in the specification to show that the range of nucleating agent as claimed (i.e. 2.1-20%) provides unexpected results.
4. The examiner also contends that one having ordinary skill would expect controlling the size of the voids of a foam with nucleating agents would affect the cushioning properties of a foam layer and therefore would be an obvious modification.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL B. NELSON whose telephone number is (571) 270-3877. The examiner can normally be reached on Monday through Thursday 6AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on (571) 272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patricia L. Nordmeyer/
Primary Examiner, Art Unit 1783

/MN/
07/07/10